

October 6, 2014



Talbot County Planning Commission
Final Decision Summary

Wednesday, September 3, 2014 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

Thomas Hughes
William Boicourt
Michael Sullivan
Paul Spies
Jack Fischer

Staff:

Sandy Coyman, Planning Officer
Mary Kay Verdery, Assistant Planning Officer
Mike Pullen, County Attorney
Martin Sokolich, Long Range Planner
Elisa Deflaux, Environmental Planner
Carole Sellman, Recording Secretary

1. Call to Order—Commissioner Hughes called the meeting to order at 9:00 a.m.

2. Decision Summary Review—August 6, 2014—The Commission noted the following corrections to the draft decision summary:

- a. Line 190, change to read: “or parts thereof within the Village Center zone and within the priority funding area...”
- b. Line 216, change to read: “Mr. Pullen stated the amendment’s purpose is to reset the starting point...”
- c. Line 232, change to read: “Commissioner Boicourt clarified that both the existing maps and the amended maps, until the comprehensive plan is finalized and in place, are interim maps.”
- d. Line 250, should be “Bill 1289”, not 1290.
- e. Line 255, change to read: “He said that the Planning Commission conducted careful analysis of factors such as EMS, flood plains, evacuations, traffic, the character of villages, in order to ensure that the existing tier maps most effectively reflected the land use policies of the current comprehensive plan.”
- f. Line 317, change to read: “Commissioner Hughes objected to the state allowing berm infiltration ponds in poor soil locations especially adjacent to wetlands as this is a health hazard.”
- g. Line 435, change to read: “and over time it is better to do things that way than to be constantly at each other’s necks.”
- h. Line 436, change to read: “Over the years Mr. Hughes has lobbied the town and state government...”

Commissioner Sullivan moved to approve the draft Planning Commission Decision Summary for August 6, 2014, as amended; Commissioner Boicourt seconded the motion. The motion carried unanimously.

54
55 **3. Old Business—None.**
56

57 **4. New Business**
58

- 59 a. Administrative Variance—Harry Gueterman and Kim Gueterman, #A208—
60 7671 Tred Avon Circle, Easton, MD 21601, (map 34, grid 19, parcel 275, lot 12,
61 zoned Rural Residential), John R. Pierce, Agent.
62

63 Mr. Coyman presented the staff report of the applicant's request for construction
64 of a roof above an existing wooden deck that covers the original concrete deck
65 located in the 100-foot shoreline development buffer. The proposed roof will
66 cover existing lot coverage and will not increase gross floor area. It will be
67 located no closer to mean high water than the existing deck.
68

69 Staff recommendations include:
70

- 71 1. The applicant shall make an application to the Department of Planning and
72 Permits and follow all rules, procedures, and construction timelines as
73 outlined regarding new construction.
74 2. The applicant shall commence construction on the proposed improvements
75 within eighteen (18) months from the date of the Planning Office's "Notice to
76 Proceed".
77

78 John R. Pierce appeared on behalf of applicants Harry and Kim Gueterman.
79 Commissioner Hughes asked for public comments; none were made.
80 Commissioner Boicourt moved to recommend to the Planning Officer to approve
81 the administrative variance for Harry and Kim Gueterman, provided compliance
82 with staff recommendations occurs; Commissioner Fischer seconded. The motion
83 carried unanimously.
84

- 85 b. Administrative Variance—Michael Cuneo, #A209—7900 Fox Harbour Lane, St.
86 Michaels, MD 21663, (map 32, grid 16, parcel 29, lot 2, zoned Rural
87 Conservation), Victor Cuneo, Agent.
88

89 Mr. Coyman presented the staff report of the applicant's request to make
90 additions to and renovations of an existing residence located in the 100-foot
91 shoreline development buffer. The project will add 137.33 square feet of lot
92 coverage and 291.43 square feet of gross floor area. The proposed additions will
93 be located no closer to mean high water than the closest point of the existing
94 structure.
95

96 Staff recommendations include:
97

- 98 1. The applicant shall make an application to the Department of Planning and
99 Permits and follow all rules, procedures, and construction timelines as
100 outlined regarding new construction.
101 2. The applicant shall commence construction on the proposed improvements
102 within eighteen (18) months from the date of the Planning Office's "Notice to
103 Proceed".
104

105 Michael Cuneo appeared before the Commission and stated he had no further
106 comments. Commissioner Hughes asked for public comments; none were made.
107

108 Commissioner Boicourt moved to recommend to the Planning Officer to approve
109 the administrative variance for Michael Cuneo, provided compliance with staff
110 recommendations occurs; Commissioner Sullivan seconded. The motion carried
111 unanimously.
112

- 113 c. Donald D. Foster and Ellen Marie Foster—Gross Coate Road, Easton, MD 21601
114 (map 9, grid 22, parcel 7, lot 8, zoned Rural Conservation/Western Rural
115 Conservation), Elizabeth Fink, Fink, Whitten & Associates, LLC, Agent.
116

117 Mr. Coyman presented the staff report for an eight lot subdivision with two
118 private roads and the project history. Staff recommendations include:
119

- 120 1. Address the August 13, 2014 Technical Advisory Committee comments of
121 Planning and Permits, Department of Public Works, Environmental Health
122 Department, Talbot Soil Conservation District and the Environmental Planner
123 prior to final plat submittal.
124

125 Elizabeth Fink, Fink Whitten and Associates, and Donald Foster, applicant
126 appeared before the Commission. Mrs. Fink stated they are in the process of
127 completing the Technical Advisory Committee requirements. At the last Planning
128 Commission meeting there was a concern about the location of the shared access
129 easement, it has been moved as discussed at that meeting. The sewage disposal
130 areas (SDAs) on Lots 14 and 15 will be adjusted, some drainage easements will
131 be adjusted accordingly, the SDA on Lot 11 was determined by Dave Russ of the
132 Environmental Health Department to be correct as shown.
133

134 Commissioner Fischer questioned if the reason the SDAs were being modified
135 was to move them further from the drainage ditch. Mrs. Fink confirmed that was
136 the case.
137

138 Bruce Armistead, Esquire, came forward and stated he is monitoring this project
139 for his client. He noted that Mr. Foster also has five undeveloped lots just past
140 this location. This gives a potential for 130 vehicle trips a day. He would like the
141 Commission to consider this traffic impact before approval of this application.
142 The Applicant must seek a variance to cross the stream. Mr. Armistead's client
143 would ask if there is another alternative that avoids the need for a variance.

Commissioner Hughes was concerned about the intersection with Todd's Corner Road. Mr. Coyman stated Mr. Mertaugh is aware of the number of lots and has considered the traffic impacts in his review. Commissioner Hughes questioned if the Commission were to approve this subdivision, knowing another five lots exist, the County would have no future opportunity to require road improvements. Mr. Coyman stated Mr. Mertaugh had been contacted and will arrive at the meeting shortly. He also noted that in Mr. Mertaugh's Technical Advisory Committee comments there were provisions for a road widening easement.

Commissioner Hughes questioned the variance for the stream crossing. Mrs. Fink explained this is a non-critical area stream crossing, so under the Code it can be approved administratively. She submitted a request to Planning Officer and it has been approved.

Commissioner Boicourt moved to table the discussion until the County Roads Engineer, Mr. Mertaugh arrives to discuss, Commissioner Fischer seconded the motion. The motion carried unanimously.

Upon Mr. Mertaugh's arrival, Commissioner Hughes stated the Commission needed some clarification on the roads issue with regard to the eight lot subdivision on Gross Coate Road, as there are five existing, approved, lots along Gross Coate Road. He asked for Mr. Mertaugh's comments regarding suitability of the road and the intersection with Todds Corner Road.

Mr. Mertaugh stated that the road is not an optimal situation, but is similar to many local roads in the County. To improve the road to current standards would be a major undertaking and past practice has been to seek a reasonable level of improvement. Commissioner Hughes asked if trees could be trimmed at the intersection of Gross Coate and Todds Corner. Mr. Mertaugh stated certainly the County could trim trees in the County right of way. He does not have specific traffic volume there because this subdivision was small enough they did not require a traffic impact study. The site lines at that corner are not optimal but the roads have very low traffic volumes.

Commissioner Sullivan asked if they could put up a bigger stop sign. Mr. Boicourt stated coming south from Presquile you cannot detect an intersection. Mr. Mertaugh stated they could put up a bigger stop sign, and could also put up one of the warning signs ("intersection ahead").

Commissioner Hughes stated they understand the applicant has no control over the intersection of Gross Coate and Todds Corner and it is the County's responsibility. He believes we need to be proactive however we can with signage, a bigger stop sign and do whatever tree trimming we can. The other issue is the

width issue and the adequacy of Gross Coate Road considering that there are eight more houses and another five existing unimproved lots.

Mr. Mertaugh stated there is a road widening easement. With subdivisions, if the existing right of way is less than 60 feet then we require a widening easement to make up the difference to 60 feet. In this case since the Fosters own both sides of the road (Gross Coate) we require an easement, where they own frontage. As it stands right now we do not require that the road be widened. The easement anticipates that at some point the County may improve the road. The County has 380 miles of road, obviously we have a limited capital improvement budget, and this road is going to be pretty far down that list for improvements. If a ten lot subdivision came in further down the road that might cause a tipping point where the County would say the road would then need to be improved. Commissioner Hughes asked if the Fosters would be liable for any of the cost of those improvements; Mr. Mertaugh stated they would not.

Commissioner Fischer asked about the County liability. Mr. Pullen stated there is not any blanket liability. The question would always be if there was a foreseeable risk not apparent to a person of ordinary intelligence and whether there was a need to warn that was not fulfilled. Mr. Pullen noted that the development impact fee ordinance does require contributions for road capital improvements. When a subdivision receives a building permit they pay development impact fees to address road and other public facility demands created.

Mr. Pullen suggested this matter be referred to the Traffic Advisory Committee. It is a matter of approaching a property owner and asking them to cut the vegetation and if they don't they may be responsible if someone gets injured.

Commissioner Hughes suggested as a totally separate item, not part of this application, that we make a suggestion to the Traffic Advisory Committee to take a look at this intersection with regard to signage, or politely asking the landowner to gain permission to trim the trees back. Commissioner Hughes asked for public comments; none were made.

Commissioner Boicourt moved to approve the final eight lot subdivision with two private roads for Donald Foster, with staff recommendations required; Commissioner Sullivan seconded. The motion carried unanimously.

- d. A Resolution to amend the Talbot County solid waste management plan to increase the percentage of the solid waste stream diverted to recycling within the County from fifteen percent (15%), the former recycling goal set by state law under Section 9-505(A)(19) of the Environment Article, to at least twenty percent (20%), the current recycling goal for jurisdictions such as Talbot County with a population less than 150,000.

Ray Clarke, County Engineer, presented Resolution No. 213 and asked if the Commission finds that it is consistent with the Comprehensive Plan and would they would recommend it to the County Council. Resolution 213 comes via a change by state law that jurisdictions under 250,000 people must amend their solid waste management plans to increase their recycling goal from 15% to 20%. Talbot County has three of their jurisdictions that provide curbside recycling and currently recycle about 30-35% of their waste streams by weight. This will likely not require changes or additional investment by Talbot County to meet this standard. Commissioner Hughes asked for public comments; none were made.

Commissioner Boicourt moved to recommend the County Council approval of Resolution No. 213 as it is consistent with the Comprehensive Plan; Commissioner Fischer seconded the motion. The motion carried unanimously.

- e. A Resolution to amend the Talbot County solid waste management plan to establish a recycling program for apartment buildings and condominiums with 10 or more dwelling units as required by state law under Section 9-1703(B)(12) of the Environment Article, Annotated Code of Maryland.

Mr. Clarke presented Resolution No. 214 and asked if the Commission to make a findings whether it is consistent with the Comprehensive Plan and provide a recommendation to the County Council. He stated that state law required that large apartment complexes and condominiums provide recycling facilities. Given that the County's apartments are predominately in the Town of Easton and the Town of St. Michaels and are covered by curbside recycling this requirement will also not require the County to change current practice or expend significant funds. Commissioner Hughes opened to public comments, there were none.

Commissioner Sullivan moved to recommend the County Council approve Resolution No. 214 as it is consistent with the Comprehensive Plan; Commissioner Boicourt seconded the motion. The motion carried unanimously.

5. Discussions Items

- a. Nonconforming Vertical Expansion

Mr. Coyman explained that we had two examples this morning of projects in the critical area shoreline buffer. The County regularly reviews and approves such requests with involve an expansion located over existing lot coverage that is no closer to mean high water than the existing structure, the parcel buffer would currently meet lot coverage limitations and the expansion does not create gross floor area. Mr. Coyman asked if the Commission desired to continue to see these or could they be handled administratively. He stated the staff would need to consult with the Critical Area Commission if the administrative approach is used.

Commissioner Boicourt stated his concerns about increased floor area. He would be more comfortable with Planning Commission review for larger projects.

Mr. Coyman stated there are two aspects, lot coverage and gross floor area. If you are in the buffer you are limited to 20% additional gross floor area and if you exceed that the applicant must appeal to the Board of Appeals.

Christine Dayton, Architect, stated the health department plays a large part in any additional space or bedrooms. Multiple bedrooms cannot be added without health department approval. Commissioner Hughes stated that applies if you have a sewage disposal area, but if you have a sewer that does not apply. Commissioner Sullivan also stated that you have the problem of a small lane and you build a large home with increased traffic.

6. Staff Matters

7. Work Sessions—Comprehensive Plan—Minutes of the work session are provided under separate cover.

8. Commission Matters

9. Adjournment—Commissioner Boicourt moved that the Planning Commission adjourn to Executive Session for legal advice regarding the Comprehensive Plan, Commissioner Sullivan seconded the motion. The motion carried unanimously. Commissioner Hughes adjourned the meeting at 10:14 a.m. to Executive Session to receive legal advice.

The executive session adjourned at 11:44 a.m.